

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

HECTOR E. PINEIRO,	)	
Plaintiff	)	
	)	
v.	)	C.A. NO. 10-40262FDS
	)	
GARY J. GEMME, WORCESTER CHIEF	)	
OF POLICE & CITY OF WORCESTER,	)	
Defendants	)	
	)	

**DEFENDANTS' MOTION FOR A STAY OF DISCOVERY PENDING DECISION ON  
DEFENDANTS' PROPOSED MOTION FOR JUDGMENT ON THE PLEADINGS**

Now come Defendants Gary Gemme and City of Worcester (City) and hereby move this Court for to issue a stay of discovery in this matter pending the resolution of Defendants' proposed filing of a motion for judgment on the pleadings. As good cause for this motion, the Defendants have proposed in their statement pursuant to L.R. 16.1 (D) that the appropriate next step in this case is for the Defendants to file a motion for judgment on the pleadings seeking dismissal on the grounds that Pineiro's claims are barred by qualified immunity. "Qualified immunity 'provides defendant public officials an immunity from suit and not a mere defense to liability.' " Feliciano-Hernandez v. Pereira-Castillo, 663 F.3d 527, 533 (1st Cir. 2011) (quoting Maldonado v. Fontanes, 568 F.3d 263, 268 (1st Cir. 2009)).

Thus, in order to conserve the parties' and the Court's resources regarding discovery and/or discovery disputes until the qualified immunity issue is resolved, a stay should be granted. [A]bsent a statute or rule to the contrary, federal district courts possess the inherent power to stay pending litigation when the efficacious management of court dockets reasonably requires such intervention." Marquis v. Fed. Deposit Ins. Corp., 965 F.2d 1148, 1154 (1<sup>st</sup> Cir. 1992); see also City of Bangor v. Citizens Communications Co., 532 F.3d 70, 79 (1<sup>st</sup> Cir. 2008) (magistrate granted stay of discovery as to third-party claims pending decision on bifurcation).

WHEREFORE, Defendants hereby move this Court for a stay of discovery pending a decision on Defendants' motion for judgment on the pleadings.

DEFENDANTS GARY J. GEMME,  
AND CITY OF WORCESTER

By their attorneys,

/s/ Kevin M. Gould

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CERTIFICATE OF LOCAL RULE 7.1 CONFERENCE

I, the undersigned, hereby certify that I conferred with Plaintiff's counsel in a good faith attempt to resolve or narrow the issues presented by this Motion.

/s/ Kevin M. Gould

Kevin M. Gould

Assistant City Solicitor

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system on, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and there are no non-registered participants.

/s/ Kevin M. Gould

Kevin M. Gould

Assistant City Solicitor